HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
And
HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL NO.344 OF 2006

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Between:
Jajala P. Chandra Rao

..... Appellant

AND

N.T.R University of Health Sciences,
Andhra Pradesh at Vijayawada, rep. by its
Vice-Chancellor and another

.....Respondents

::JUDGMENT::

Counsel for the Appellant : Sri P. Venugopal

Counsel for Respondents : Sri D.V. Nagarjuna Babu

Dated 6/4/2006

Per Sri G.S.Singhvi, CJ

Feeling aggrieved by the order of the learned Single Judge who refused to entertain the appellant's prayer for issuance of a direction to the respondents to revaluate the answer scripts of the papers of Bio-Chemistry and Physiology of 1st year MBBS Examination held in September, 2005, the appellant has preferred this appeal.

The appellant was admitted to MBBS Course in N.R.I. Medical College, China Kakani, Guntur district in the academic year 2001-02. He appeared in the 1st year MBBS examination held in September 2005. He was declared 'fail' because he could not secure minimum 50% marks in the papers of Bio-Chemistry and Physiology. He represented to the University for scrutiny and then applied for revaluation, but could not persuade the respondents to declare him 'pass'. He then filed writ petition under Article 226 of the Constitution for declaring the action of the respondents as illegal by contending that although he had correctly answered all the questions, the examiner arbitrarily undervalued his answers and awarded zero marks.

During the course of hearing before the learned Single Judge, counsel representing the appellant strongly relied on order dated 3.2.2006 passed by another learned Single Judge in Writ Petition No.27027 of 2005 (T.Deepti and 3 others vs. NTR University and another) and batch and argued that the Court should direct the respondents to undertake fresh assessment of the answer scripts of the two papers. It was urged that the appellant had been declared 'fail' only on account of deficiency of one

mark in two papers and, therefore, a direction should be given to the respondents to undertake exercise for revaluation and then declare him 'pass'.

The learned Single Judge did not feel convinced with the plea of the appellant and held that in the absence of any statutory provision for revaluation, the Court cannot ordain the University to undertake reassessment of the answer scripts. The learned Single Judge relied on order dated 19.12.2005 passed in WA No.2366 of 2005 and held that there was no justification for the Court to interfere with the assessment made by the experts. The learned Single Judge referred to the averments contained in the pleadings of the parties, including the decision taken in the meeting of the Board of Studies held on
19-11-1998, which was approved by the Academic Senate on
24-4-1999 and observed that in the face of the decision taken by the University authorities not to provide for revaluation of the answer scripts, the petitioner is not entitled to any relief.

We have heard Sri P.Venugopal, learned advocate for the appellant, Sri D.V. Nagarjuna Babu, advocate for the respondents and carefully perused the record, including the answer scripts of the papers of Bio-chemistry of 1st year MBBS examination of the appellant. The answer scripts were also shown to Sri P. Venugopal.

At the out set, we would like to reiterate the views expressed by the Coordinate Bench in W.A.No.2366 of 2005 that in exercise of its power under Article 226 of the Constitution of India, the High Court cannot sit in appeal over the assessment made by the teachers of the answer scripts of the students and substitute its opinion for that of the assessor on the merits of the answers given by the student and further that the Court will be loath to interfere with the decision taken by the academic bodies except when such decision is per se contrary or is vitiated due to mala fides. In this connection, reference can appropriately be made to the judgment of the

Supreme Court in **University of Mysore v. S.Govinda Rao**[1].

It is also apposite to mention that in the absence of any statutory provision in the University Act, Statutes, Rules or Regulations for revaluation of the answer scripts of the students, the Court cannot compel the University authorities to undertake revaluation. This proposition is clearly borne out from the judgment of the Supreme Court in **Maharastra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kurmarsheth**[2].

De hors the aforementioned observations, we, after going through the answer scripts produced by Sri D.V.Nagarjuna Babu, are convinced that the assessment made by the teachers concerned does not suffer from any infirmity. Each of the question attempted by the appellant was assessed by the teachers and appropriate marks awarded. In the second paper of Bio-chemistry, the examiner awarded 'zero' mark to the appellant in respect of question No.9. A bear reading of the answer of that question makes it clear that the same was patently incorrect and no person of reasonable prudence could have given more than zero mark to the appellant.

In view of the above, we hold that the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for revaluation of the answer scripts.

Before concluding, we may advert to order dated 3-2-2006 passed by another learned Single Judge in Writ Petition No.27027 of 2005 and batch, a copy of which has been annexed with the paper book of this appeal. In that case, the learned Single Judge directed the university to send the answer scripts of the papers in which the petitioners had failed to secure minimum marks to the Head of the Department, with a further direction to the latter to verify the answer scripts either by himself or by taking the assistance from the concerned subject experts. After taking cognizance of

the result of that exercise, the learned Single Judge disposed of the writ petition by directing the university to extend the advantage of upward revision to the petitioners and ignore any downward revision and then declare them 'pass'.

We have serious reservation regarding the legality and propriety of the course adopted by the learned Single Judge to direct the University to get the answer scripts of the candidates re-scrutinised and that too without deciding the writ petition and ignoring the law laid down by the Supreme Court in **Maharastra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kurmarsheth** (2 supra). However, we refrain from expressing final opinion on this aspect because learned counsel for the University gave out that the respondents have filed appeal against that order.

In the result, the appeal is dismissed.

G.S.SINGHVI, CJ

Dt.6/4/2006

G.BHAVANI PRASAD, J

Msv/svs

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[1] AIR 1965 SC 792

[2] AIR 1984 SC 1543.